

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Terry M. MARTIN et al.	§	Confirmation No.:	5598
	§		
Serial No.: 10/628,166	§	Group Art Unit:	2452
	§		
Filed: July 28, 2003	§	Examiner: Thomas J. Dailey	
	§		
For: System And Method For	§	Docket No.:	200208612-1
Collecting Data Regarding	§		
Network Service Operation	§		

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: July 21, 2010

Sir:

In response to the Examiner's Answer dated May 27, 2010, Appellants submit this Reply Brief for further consideration by the Board. Appellants respond to various statements made by the Examiner in the Response to Argument section (10) of the Answer. Appellants respectfully ask that all arguments made both in the Appeal Brief and the Reply Brief be considered despite the fact that this Reply Brief does not reiterate each argument made in the Appeal Brief.

I. ARGUMENT REGARDING INTERCEPTION

On page 9 of the Examiner's Answer, the Examiner argues that Karakashian does in fact teach the claimed interception. The Examiner points to [0032], ll. 4-7 for support. Referring to Fig. 1 of Karakashian, the Examiner's citation teaches that the protocol handler 102 "intercept[s]" a web service invoke from a web services client.

Appellants respectfully submit that Karakashian's use of the term "intercept" is inapposite with reference to Appellants' patent application. Appellants' specification¹ teaches in the Background section that clients may send requests to network services which, in turn, leverage other network services to provide a response to the client. Such transactions are routinely performed. Appellants' contribution, however, is a way to **intercept** the aforementioned requests and responses from their usual travel pathways so that information can be interjected into or read from those requests and responses. Thus, when using the term "intercept," Appellants' claims refer to an action that involves altering the usual manner in which requests and responses travel between two points in a network. Appellants' specification clearly supports such an interpretation, such as on p. 9, ll. 16-17, which reads, "[e]ach message handler 216 comprises a mechanism that is configured to intercept and process messages independent of the underlying network service code." In fact, the specification is replete with references to such interception, which clearly represents an alteration in the manner in which data used to travel between two points (as described in the Background section).

Such interception may be loosely analogized to a football play in which a quarterback passes the ball to a receiver, only to have the ball intercepted by a player from the opposing team. The interception is a distinct change in the manner in which the ball was **intended** to travel from the quarterback to the receiver. In a similar way, Appellants' claims require an entity that intercepts a request or response that was **intended for a different entity**.

In substantial contrast, Karakashian's Fig. 1 teaches that all HTTP-formatted data passes through the protocol adapter 102 **as a matter of course** on its way to the web service container 108. Thus, unlike Appellants' invention, in which the intercepting entity alters the intended path for data travel between two

¹ Appellants are fully cognizant of the fact that limitations from the specification cannot be imported into the claims. In this instance, however, Appellants are using the specification to help define terms already present in the claims. As the Examiner and Board are certainly aware, the specification is routinely used to define claim terms and Appellants are entitled to act as their own lexicographers.

points, the protocol adapter 102 **must** be present so that **all** HTTP-formatted data can be translated prior to transmission to the container 108. Thus, in Karakashian, all HTTP-formatted data is intended to pass through the protocol adapter 102, and removing the protocol adapter 102 would render the system useless. Removal of Appellants' intercepting features, however, would result in a system that functions in a manner similar to that described in the Background section – i.e., a system that lacks the benefits of interception but that is nonetheless a fully functioning system

Further still, Appellants' interception feature is particularly distinguishable over Karakashian because a developer using Appellants' interception feature may not have access to the software code of the network services and thus may be unable to directly manipulate the network services to obtain the information they desire. Background section. For at least this very reason – the fact that in many instances, Appellants are unable to manipulate the network services code – Appellants must instead resort to using a “middleman” that can intercept requests and responses that are intended for clients and/or network services over which Appellants may have little or no control. Karakashian discloses no such teachings.²

Based at least on the foregoing, the Examiner continues to err in rejecting the claims.

II. ARGUMENT REGARDING INTERJECTION

On pp. 10-11 of the Examiner's Answer, the Examiner argues that Karakashian teaches the interjection of message contexts. In particular, the Examiner explains that the message contexts are interjected into web service invoke signals. Appellants, however, find no such teaching in Karakashian, nor has the Examiner pointed out any such teaching. Instead, the Examiner continues to reference portions of Karakashian that teach that the message contexts are

² Appellants reiterate that Appellants are not arguing features that are absent from the claims. Instead, Appellants are explaining the meaning of claimed terms – such as “intercept” and “intended for” – in light of the specification and are arguing that such terms, as defined by Appellants' specification, are not taught in Karakashian or any other prior art of record.

"propagated" to and from the web services container 108. The Examiner argues that, based on Karakashian's teachings of propagation of message context and creation of the message context by the protocol adapter 102, "it [is] essential that such information . . . is 'interjected' into the now modified request." The Examiner claims that such interjection is inherent but fails to adequately explain why. The Examiner simply points to multiple portions of Karakashian, none of which **necessarily** teach that the message contexts are **interjected** into web service invocation signals or other signals. For instance, an interpretation that message contexts are propagated **with** invocation signals instead of being interjected **into** the invocation signals would appear to be consistent with Karakashian's teachings. Absent any explicit or inherent teaching that message contexts **necessarily** are interjected into invocation signals, Karakashian fails to anticipate or render obvious the claims.

For at least this additional reason, the Examiner continues to err in rejecting the claims.

III. CONCLUSION

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

/Nick P. Patel/

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
3404 E. Harmony Road
Fort Collins, CO 80528-9599

Nick P. Patel
PTO Reg. No. 57,365
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
AGENT FOR APPELLANTS